

BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT	)	PDC CASE NO: 03-466
ACTION AGAINST	)	
	)	
Derek Young	)	Notice of Administrative
	)	Charges
	)	
Respondent.	)	
_____	)	

IT IS ALLEGED as follows:

**I.**  
**JURISDICTION**

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Act, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC.

**II.**  
**LAW**

**RCW 42.17.240 Elected and appointed officials, candidates, and appointees—Reports of financial affairs and gifts**, states in part: “(1) Every elected official and every executive state officer shall after January 1<sup>st</sup> and before April 15<sup>th</sup> of each year file with the commission a statement of financial affairs for the preceding calendar year...”

**RCW 42.17.241** details the content required in each report.

**WAC 390-24-010 Forms for Statement of Financial Affairs**, states in part: “The official form for statements of financial affairs as required by RCW 42.17.240 is designated ‘F-1’, revised 11/97...”

**III.**

### **FACTS**

The Respondent, Derek Young, is a City Council member in the City of Gig Harbor, 5415 36<sup>th</sup> Avenue NW, C101, Gig Harbor, Washington 98335. His term of office ends in the year 2005.

**(Exhibit 1)** Mr. Young held office during 2002 and was required to file a Statement of Financial Affairs (PDC form F-1) by April 15, 2003. The F-1 report was not timely filed. Mr. Young signed up to file his F-1 report electronically and submitted the report electronically on April 15, 2003. However, he failed to complete, sign and mail the Signature Card (Signature Authorization and Password Identification for Electronic Filing Personal Financial Affairs) until June 2, 2003. **(Exhibit 2)** When Mr. Young signed up to file his F-1 report electronically, he was sent an automatic e-mail message confirming that he had successfully signed up with the Public Disclosure Commission to electronically file reports and confirming his temporary filer ID number. The e-mail message clearly stated that reports filed using his temporary filer ID, without the PDC having received his signed signature card, would be held in a pending state and would not be committed to the PDC system. The message stated that once the signed signature card was received, all pending reports would be committed to the system. He was reminded to sign and mail the signature card promptly. An example of the automatic e-mail message is enclosed. **(Exhibit 3)** In addition, after Mr. Young completed the initial signup information to file his F-1 report electronically, and prior to reaching the screen where he could complete the F-1 report, he was given the opportunity to view, print and sign the Signature Card. The form clearly stated, “You must click the View Card button below to proceed with the registration process.” It went on to say, “To proceed you must click the View Card button below. Once the signature card document appears, please use the print card link in the document to print your card. Sign the card in ink, and mail it to the PDC address at the bottom of the form.” Finally, it states, “**NOTE:** Electronically filed reports will be held in a pending state until your signature card is received by the Public Disclosure Commission. Reports will be considered filed and your information released to the Public once your signature card has been processed by the Public Disclosure Commission Office.” The page asking the electronic filer to view and complete the signature card is enclosed. **(Exhibit 4)**

On May 7, 2003, Mr. Young was sent a letter informing him that the F-1 report due by April 15, 2003 had not been received. The letter stated that he needed to file before May 21, 2003 to avoid the possibility of enforcement. **(Exhibit 5)** On May 23, 2003, Mr. Young was notified of a brief enforcement hearing scheduled for June 12, 2003. The notice gave him the opportunity to file the missing report, stipulate to a violation and pay a \$100 penalty to avoid a brief enforcement hearing. **(Exhibit 6)** On June 5, 2003, Mr. Young was notified that the brief enforcement hearing had been cancelled. He was informed that according to the penalty schedule adopted by the Commission, the number of past violations made his case not eligible for a brief enforcement hearing. **(Exhibit 7)** The June 5, 2003 letter informed Mr. Young that he would be notified of a future enforcement hearing before the full Commission to determine if he has violated the public disclosure law by failing to timely file his F-1 report by April 15, 2003. The F-1 report due April 15, 2003 was committed into the PDC system when the signed signature card was received on June 2, 2003. **(Exhibit 2)**

Mr. Young sent a letter in mitigation regarding his late filing. **(Exhibit 8)** He states that after receiving the May 7, 2003 warning letter from the PDC, he contacted PDC staff member Tony Perkins and asked why the F-1 had not been received. Mr. Young stated that upon instruction from Mr. Perkins, he immediately printed out and mailed the required signature card. Mr. Young states that after receiving the May 23, 2003 brief hearing notice on May 31<sup>st</sup>, he again contacted the PDC and spoke with Mr. Perkins. Following this second conversation, the PDC received Mr. Young's signed signature card on June 2, 2003.

**Past History** – Derek Young was elected to the City Council of Gig Harbor in 1997. On November 3, 1999, at a brief enforcement hearing in Case #00-209, Mr. Young was found in violation of RCW 42.17.240 for failing to timely file his annual F-1 report by April 15, 1999 and was assessed a penalty of \$350. On October 23, 2000, at a brief enforcement hearing in Case #01-130, Mr. Young was found in violation of RCW 42.17.240 for failing to timely file his

annual F-1 report by April 17, 2000 and was assessed a penalty of \$500. On September 27, 2001, at a hearing before the full Commission in Case #01-684, Mr. Young was found in violation of RCW 42.17.240 for failing to timely file his annual F-1 report by April 16, 2001 and was assessed a penalty of \$750 with \$500 suspended on the condition that he commits no further violations of RCW 42.17 for a period of four years from the date of the order. The order was dated October 8, 2001. (**Exhibit 9**) All outstanding penalties have been paid.

#### **IV.** **CONCLUSION**

Staff alleges, based on the facts specified in Section III, that Derek Young has violated RCW 42.17.240 by failing to timely file the Statement of Financial Affairs (PDC form F-1) by April 15, 2003. While Mr. Young electronically submitted his F-1 report on April 15, 2003, he failed to follow repeated warnings and advice to submit a signed signature card so that the filing could be committed into the PDC system as received and made available to the viewing public. Staff further alleges that the Respondent has violated the terms of the order issued in Case #01-684.

RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of August, 2003.

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Philip E. Stutzman  
Director of Compliance

#### **Exhibits**

Exhibit 1	Jurisdiction Card
Exhibit 2	Signed Signature Card and Cover Letter
Exhibit 3	Example of the automatic e-mail message
Exhibit 4	Page asking electronic filer to view and complete Signature Card
Exhibit 5	May 7, 2003 Warning Letter
Exhibit 6	May 23, 2003 Brief Enforcement Hearing Notice
Exhibit 7	June 5, 2003 Cancellation of Brief Enforcement Hearing
Exhibit 8	Letter in Mitigation from Derek Young
Exhibit 9	Order in Case #01-684